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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,536	03/17/2004	Alan Douglas Clark	041253.008CONT	3505
25461	7590	08/10/2005	EXAMINER	
SMITH, GAMBRELL & RUSSELL, LLP 1230 PEACHTREE STREET, N.E. SUITE 3100, PROMENADE II ATLANTA, GA 30309-3592			HO, DUC CHI	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/802,536	Applicant(s) CLARK, ALAN DOUGLAS	
	Examiner Duc C. Ho	Art Unit 2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 11-20 is/are allowed.  
6) ☒ Claim(s) 1, 2, 21 and 22 is/are rejected.  
7) ☒ Claim(s) 3-10, and 23-30 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Prosecution Reopened on Allowable Subject Matter***

1. The indicated allowability of claims 1-30 is withdrawn in view of the newly discovered reference(s) to Nils Olof Johannesson. Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102(b) that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, and 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Nils Olof Johannesson (The ETSI Computation Model: A tool for transmission planning of telephone networks, IEEE Comms-IDS record), hereinafter referred to as Johannesson.

Regarding claim 1, Johannesson discloses the E model for evaluating communication quality in telephone networks. Figures 3-4-page 74 illustrate GOB, POW, TME, and MOS used to produce the reference impairment as a function of factor R in the E-model.

*during more than one interval of a single call determining the level of one or more impairments* (The E model combines the effect of the various transmission parameters into a rating factor R, from which user reaction for a call under more than one interval assumption can be predicted. The rating factor R includes  $I_s$ ,  $I_d$ , and  $I_e$ , which are

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impairment factors, i.e., the values corresponding to codec impairment and expectation factor are shown in tables 1-2, and figures 3-4, pages 73-74, see also Equation (1)-page 72),

*during more than one interval of that same single call determining the effect of said one or more impairments on the estimated subjective quality of said multimedia signal* (the E-model can be used to evaluate or to estimate the effects of impairment on the speech communication quality or subjective quality, see page 71-right col. and page 74).

Regarding claim 2, in Johannesson the impairments are selected from the group consisting of delay, noise, etc, see page 72-73.

Regarding claims 21-22, these claims have similar limitations as claims 1-2. Therefore, they are rejected under Johannesson for the same reasons set forth in the rejection of claims 1-2, respectively.

#### ***Allowable Subject Matter***

4. Claims 11-20 are allowed.
5. Claims 3-10, and 23-30 are objected to as being independent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Ho whose telephone number is (571) 272-3147.

The examiner can normally be reached on Monday through Friday from 7:00 am to 3:30 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (571) 272-3155.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner



Duc Ho

08-05-05